

dcavaleri@hnrklaw.com

**VIA ECF**

Honorable Lorna G. Schofield  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: Carmody v. New York University, et al., No. 1:21-cv-8186 (LGS)**

Dear Judge Schofield,

Pursuant to the Court's order dated November 23, 2022 (ECF No. 102), Plaintiff respectfully submits this letter motion to re-open discovery to depose certain witnesses regarding the contents of the text messages produced by Defendants on December 16, 2022.

On December 16, 2022, Defendants produced over 200 unique text messages to Plaintiff. Of the text messages produced, Dr. Francois was involved in almost all of the text message conversations. Additionally, Defendants' production revealed that Ms. Sanchez, NYU Langone Health's Executive Vice President and Vice Dean of Human Resources and Organization Development and Learning, was far more involved in the decision to terminate Plaintiff than was previously known through email discovery, including her direct conversations with Drs. Grossman and Francois and group texts with Drs. Francois and Femia. Defendants also confirmed that there were no recoverable text messages on Dr. Femia's phone or cloud storage due to Dr. Femia's "usual deletion practice long before" April 2021.

Plaintiff respectfully requests that the court issue an order to re-open discovery to depose certain individuals.

**First**, Plaintiff requests to depose Ms. Nancy Sanchez for no longer than 4 hours regarding her involvement in the termination of Dr. Carmody, her conversations with Drs. Femia, Grossman, and Francois regarding the VIP patient and Dr. Carmody's termination, and the pressure that was imposed on Dr. Femia from NYU's administration to terminate Dr. Carmody.

**Second**, Plaintiff requests to re-depose Dr. Francois for no longer than 2 hours regarding his text message conversations with Drs. Grossman, Femia, Abramson, Jamin, Ms. Sanchez, and other doctors within NYU regarding the resident letters, Dr. Carmody's termination, and the departmental review committee. At Dr. Francois' deposition he could not recall if he ever communicated with Drs. Femia, Abramson, or Jamin through text messages about work related matters. Thus, Plaintiff was unable to ask him about any of this text message conversations. *See* Francois Dep. at 21:14-16; 29:23-30:7; 31:8-11. Further, on July 14, 2022, when asked about a specific text message from Dr. Femia that was not produced about Dr. Carmody's termination, Dr. Francois, through counsel, asserted that he did not have that text message from Dr. Femia,

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**HOGUET NEWMAN**  
**REGAL & KENNEY, LLP**

but that specific text message has now been produced as part of Defendants' December 16, 2022 production. *See* ECF No. 74-5. Therefore, Plaintiff is also entitled to ask about Dr. Francois' basis for that assertion.

**Finally**, Plaintiff requests to re-depose Dr. Femia for no longer than 2 hours regarding his text message deletion practices, the text messages with Drs. Francois, Grossman and Ms. Sanchez, and his reluctance to terminate Dr. Carmody or even strip Dr. Carmody of her leadership title as of 4:30pm on the day before Dr. Carmody's termination. Further, at Dr. Femia's deposition, he never mentioned that he did not have responsive text messages because of his usual deletion practices. Rather, he testified that he reviewed his phone and was unable to find text messages. Femia Dep. 186:6-12.

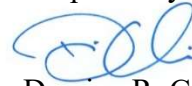
Plaintiff also respectfully requests that Defendants pay the cost of the requested depositions due to Defendants' failure to produce the requested text messages during the course of fact discovery, including attorney fees not to exceed \$30,000 and related costs.

Consistent with the Court's November 23, 2022 order, Plaintiff continues to reserve her right to renew her motion for an adverse inference and/or other forms of relief, including attorneys fees following the completion of the requested depositions.

Plaintiff thanks Your Honor for your time and attention to this matter.

Dated: December 22, 2022

Respectfully submitted,



Damian R. Cavaleri

cc: All counsel of record (*via ECF*)